

## UNITED STATES-PANAMA PARTNERSHIP ACT OF 2000

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JULY 27, 2000.—Ordered to be printed

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Mr. GILMAN, from the Committee on International Relations,  
submitted the following

### REPORT

together with

### MINORITY VIEWS

[To accompany H. Res. 3673]

[Including cost estimate of the Congressional Budget Office]

The Committee on International Relations, to whom was referred the bill (H.R. 3673) to provide certain benefits to Panama if Panama agrees to permit the United States to maintain a presence there sufficient to carry out counternarcotics and related missions, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

#### BACKGROUND AND PURPOSE

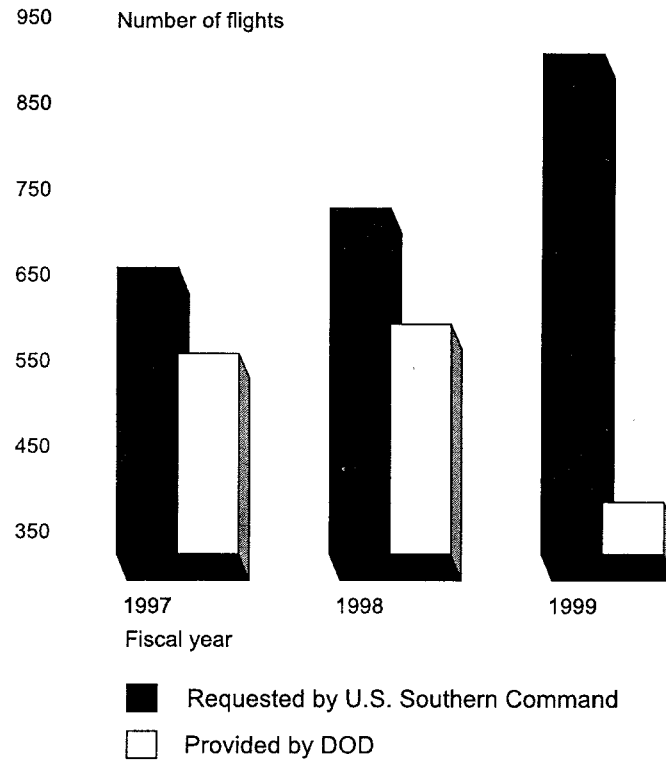
In accordance with the Panama Canal Treaties of 1977, the United States terminated its military presence in Panama at the end of 1999, and Panama assumed full control of the Panama Canal and all former U.S. military installations.

The loss of U.S. access to facilities in Panama, especially Howard Air Force Base, has had a devastating effect on the ability of the United States to protect its interests in Latin America and the Caribbean. Counternarcotics operations have been particularly hard hit. With regard to aerial interdiction operations, the Commander-in-Chief of the United States Southern Command, General Charles Wilhelm, stated in a letter dated June 8, 2000, that until the facilities at Howard Air Force Base are replaced, “we estimate that our capability will continue to be approximately a third of what it was in Panama.”

The following chart, prepared by the General Accounting Office for a December, 1999 report to Congress illustrates graphically the

effect on counternarcotics operations of the closure of Howard Air Force Base in mid-1999:

**Figure 2: DOD's Intelligence, Surveillance, and Reconnaissance Counterdrug Aircraft Support in Central and South America and the Caribbean, Fiscal Years 1997-99**



Note: Data prior to 1997 was not available.

Source: U.S. Southern Command.

A 1977 protocol to the Treaties provides that the United States and Panama may agree to a U.S. presence in Panama after 1999. For three years, U.S. and Panamanian negotiators sought to reach just such an agreement. On September 24, 1998, however, it was announced that these negotiations had failed and that the U.S. military would withdraw from Panama as scheduled.

This was a regrettable turn of events for both of our countries. The United States and Panama both benefitted in many ways from the U.S. presence in Panama. For the United States, that presence provided a forward platform from which to combat narcotrafficking and interdict the flow of drugs, which threatens all countries in this hemisphere. These benefits to the United States cannot be duplicated at the so-called "forward operating locations" that the Administration has sought with limited success to set up in several countries in Latin America and the Caribbean.

For Panama, the U.S. presence added an estimated \$300 million per year to the local economy, fostered economic growth by contributing to a stable investment climate, and helped deter narcoterrorism from spilling over into Panama.

In retrospect, the United States should have responded more favorably to Panama's proposal in 1995 to negotiate an extension of our traditional presence in exchange for a package of benefits to be mutually agreed upon. In the wake of the Clinton Administration's decision to reject that proposal, the effort to establish a Multinational Counternarcotics Center failed to gain broad support across Panama's political spectrum.

H.R. 3673 returns to, and builds upon, the concept proposed by Panama in 1995 of permitting a U.S. presence in Panama beyond 1999 in exchange for a package of benefits. The legislation also accepts the idea first proposed by Panama of permitting counternarcotics operations from Panama to take place under multinational auspices.

The purpose of H.R. 3673 is to give the President authorities that he can use to seek an agreement with Panama to permit the United States to maintain a presence there sufficient to carry out counternarcotics and related missions.

H.R. 3673 offers Panama the opportunity to join Canada and Mexico in forging a new, more mature, mutually beneficial relationship with the United States. In exchange, the legislation asks Panama to remain our partner in the war on drugs by agreeing to host a U.S. presence, alone or in conjunction with other friendly countries, sufficient to carry out counternarcotics and related missions.

H.R. 3673 is merely a grant of authority to the President. It seeks to provide him with tools that he can use to negotiate an agreement with Panama regarding a matter of vital concern to both countries. The President will be free to use or not use the tools provided by H.R. 3673. If the President chooses to use them, Panama will be free to accept or reject any proposal the President makes.

The Committee hopes that Panama will accept the invitation extended by H.R. 3673 to reinvigorate the special relationship between our two peoples.

#### COMMITTEE ACTION

H.R. 3673 was introduced on February 16, 2000, by Mr. Gilman. It was referred to the Committee on International Relations, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the Committee concerned.

On July 28, 1999, the Committee held a hearing on "Post-1999 U.S. Security and Counter-Drug Interests in Panama." Testimony was received from Ambassador Thomas E. McNamara, formerly the Clinton Administration's chief negotiator with Panama in the negotiations aimed at reaching an agreement regarding a post-1999 U.S. presence in Panama, and General George Joulwan, former Commander-in-Chief of the United States Southern Command in Panama.

In addition, the Committee has held numerous staff briefings with Administration officials and others regarding the negotiations with Panama and efforts to replace Howard Air Force Base and other U.S. facilities in Panama. Several members of the Committee have traveled to Panama to explore these issues first-hand, as have members of the Committee staff.

#### MARKUP OF THE BILL

The Committee on International Relations marked up H.R. 3673 on June 29, 2000. The Full Committee considered the bill and agreed by voice vote to a motion to favorably report the bill to the House of Representatives, a quorum being present. No amendments were offered during the Committee markup.

#### RECORD VOTES ON AMENDMENTS AND MOTION TO REPORT

Clause (3)(b) of rule XIII of the Rules of the House of Representatives requires that the results of each record vote on an amendment or motion to report, together with the names of those voting for or against, be printed in the committee report. No record votes were taken during the consideration of H.R. 3673.

#### OTHER MATTERS

##### COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee reports the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

##### COMMITTEE ON GOVERNMENT REFORM FINDINGS

Clause 3(c)(4) of rule XIII of the Rules of the House of Representatives requires each committee report to contain a summary of the oversight findings and recommendations made by the Government Reform Committee pursuant to clause (4)(c)(2) of rule X of those Rules. The Committee on International Relations has received no such findings or recommendations from the Committee on Government Reform.

## ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act are created by this legislation.

## APPLICABILITY TO THE LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

## CONSTITUTIONAL AUTHORITY STATEMENT

In compliance with clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee cites the following specific powers granted to the Congress in the Constitution as authority for enactment of H.R. 3673 as reported by the Committee: Article I, section 8, clause 1 (relating to providing for the common defense and general welfare of the United States); Article I, section 8, clause 3 (relating to the regulation of commerce with foreign nations); and Article I, section 8, clause 18 (relating to making all laws necessary and proper for carrying into execution powers vested by the Constitution in the Government of the United States or in any Department or Officer thereof).

## PREEMPTION CLARIFICATION

Section 423 of the Congressional Budget Act of 1974 requires the report of any committee on a bill or joint resolution to include a committee statement on the extent to which the bill or joint resolution is intended to preempt state or local law. The Committee states that H.R. 3673 is not intended to preempt any state or local law.

## NEW BUDGET AUTHORITY AND TAX EXPENDITURES, CONGRESSIONAL BUDGET OFFICE COST ESTIMATE, AND FEDERAL MANDATES STATEMENTS

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives requires each committee report that accompanies a measure providing new budget authority, new spending authority, or new credit authority or changing revenues or tax expenditures to contain a cost estimate, as required by section 308(a)(1) of the Congressional Budget Act of 1974, as amended, and, when practicable with respect to estimates of new budget authority, a comparison of the estimated funding level for the relevant program (or programs) to the appropriate levels under current law.

Clause 3(d) of rule XIII of the Rules of the House of Representatives requires committees to include their own cost estimates in certain committee reports, which include, when practicable, a comparison of the total estimated funding level for the relevant program (or programs) with the appropriate levels under current law.

Clause 3(c)(3) of rule XIII of the Rules of the House of Representatives requires the report of any committee on a measure which has been approved by the Committee to include a cost estimate prepared by the Director of the Congressional Budget Office, pursuant to section 403 of the Congressional Budget Act of 1974, if the cost estimate is timely submitted.

Section 423 of the Congressional Budget Act requires the report of any committee on a bill or joint resolution that includes any Federal mandate to include specific information about such mandates. The Committee states that H.R. 3673 does not include any Federal mandate.

The Committee adopts the cost estimate of the Congressional Budget Office as its own submission of any new required information with respect to H.R. 3673 on new budget authority, new spending authority, new credit authority, or an increase or decrease in the national debt. It also adopts the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act. The estimate and report which has been received is set out below.

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, July 13, 2000.*

Hon. BENJAMIN A. GILMAN,  
*Chairman, Committee on International Relations,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3673, the United States-Panama Partnership Act of 2000.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Joseph C. Whitehill (for federal spending), and Hester Grippando (for federal receipts).

Sincerely,

BARRY B. ANDERSON  
(For Dan L. Crippen, Director).

Enclosure.

*H.R. 3673—United States-Panama Partnership Act of 2000*

Summary: H.R. 3673 would authorize certain financial benefits for Panama upon the certification by the President that the governments of the United States and Panama have reached an agreement that would permit the United States to maintain a presence at certain facilities in Panama for a period of at least 15 years. The benefits would include preferential tariff treatment for certain Panamanian imports, which would reduce governmental receipts by \$1 million to \$2 million a year, up to \$2 million in scholarships for Panamanian students, and two small grants. No negotiations for U.S. access to Panamanian facilities are currently underway. CBO does not expect an agreement in the next five years, and we therefore estimate that the bill would have no cost during that period. CBO has no basis for estimating when or if an agreement might occur after then. Because the bill could affect governmental receipts, the bill would be subject to pay-as-you-go procedures.

H.R. 3673 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

Estimated cost to the Federal Government: According to information from the State Department, no negotiations between Panama and the United States are underway and none are likely in the near future. Therefore, CBO estimates that the bill would have no

budgetary impact over the 2000–2005 period. If the bill were enacted and if Panama would agree to a U.S. presence, then the bill could affect both receipts and spending subject to appropriation.

#### *Revenues*

H.R. 3673 would provide trade preferences for certain imports from Panama, including textiles, apparel, luggage and handbags, certain leather goods, footwear, tuna, petroleum, watches, and watch parts. Most of the provisions in the bill affecting customs receipts were enacted in the Trade and Development act of 2000 (Public Law 106–200).

One major exception is a provision that would offer “in-preference-level tariff treatment” to certain textile and apparel articles that do not originate in Panama. The tariff treatment accorded to those goods would be equivalent to the tariff treatment of similar goods from Mexico. Imports of textile and apparel goods under this provision would be limited to approximately 11 million square meter equivalents in a calendar year. Based on recent data on import collections, CBO estimates that if this provision were to take effect, governmental receipts would be reduced by approximately \$1 million a year through 2008, while the provisions of Public Law 106–200 are in effect. After 2008, when Public Law 106–200 expires, the potential cost of the bill would rise to \$2 million a year.

#### *Spending subject to appropriation*

For each year an agreement is in force, H.R. 3673 would authorize up to \$2 million for scholarships for Panamanian students. Thus, spending for scholarships would increase by that amount, assuming the appropriation of the authorized amounts.

The bill also would direct the Trade and Development Agency (TDA) to consider making grants for the planning of a new bridge across the Panama Canal and for a sewage-treatment plant in Panama City. TDA has already extended a grant to study the feasibility of a second canal bridge and is considering extending grants for water and sewage projects in Panama using available resources. CBO therefore estimates that H.R. 3673 would not affect spending by TDA.

The bill would require several reports, including one on the extent to which Panama complies with U.S. trade laws. CBO estimates that the costs of preparing those reports would be insignificant.

Pay-as-you-go considerations: The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. While H.R. 3673 could affect receipts, CBO does not anticipate any loss of receipts over the 2000–2005 period.

Intergovernmental and private-sector impact: H.R. 3673 contains no intergovernmental or private-sector mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

Estimate prepared by: Federal Costs: Joseph C. Whitehill. Federal Revenues: Hester Grippando. Impact on State, Local, and Tribal Governments: Leo Lex. Impact on the Private Sector: Lauren Marks.



Estimate approved by: Robert A. Sunshine, Assistant Director for Budget Analysis. G. Thomas Woodward, Assistant Director for Tax Analysis.

#### SECTION-BY-SECTION ANALYSIS

##### *Section 1. Short title*

Provides that the Act may be cited as the “United States-Panama Partnership Act of 2000”.

##### *Section 2. Findings*

Contains congressional findings regarding the history and purpose of the U.S. presence in Panama, negotiations to extend that presence beyond 1999, and the strong shared interest that the United States and Panama continue to have in maintaining a U.S. presence in Panama.

##### *Section 3. Certification and report regarding agreement to maintain a United States presence in Panama*

Authorizes the President to submit a certification and report to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate at any time after the date of enactment. The certification would affirm that the United States and the Government of Panama have reached an agreement permitting the United States, for a period of not less than 15 years, to maintain a presence, alone or in conjunction with other friendly countries, sufficient to carry out necessary counternarcotics, search and rescue, logistical, training, and related missions at Howard Air Force Base, Fort Kobbe, Rodman Naval Station, and Fort Sherman, under terms and conditions substantially similar to those applied to the United States presence at those facilities during the period beginning on October 1, 1979 and ending on December 31, 1999. The report would contain, among other matters, the text of the agreement and a detailed description of the terms and conditions which will apply to the U.S. presence permitted under the agreement. To the degree necessary, the report may be submitted in classified form.

##### *Section 4. Benefits*

Subsection (a) provides that if the President submits the certification and report under section 3, then various benefits described in subsections (b), (c), (d), (e), (f), (g), and (h) will be extended to Panama.

Subsection (b) directs the Director of the Trade and Development Agency to consider a grant or grants to assist the design, financial planning, training, and other preparatory steps for the construction of a new bridge across the Panama Canal, and requires the Director of the Trade and Development Agency to submit a report to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate, not later than one year after the date of submission of the certification and report under section 3, regarding the steps taken pursuant to this subsection.

Subsection (c) directs the Director of the Trade and Development Agency to consider a grant or grants to assist the design, financial

planning, training, and other preparatory steps for the construction of a new sewage treatment plant for Panama City, and requires the Director of the Trade and Development Agency to submit a report to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate, not later than one year after the date of submission of the certification and report under section 3, regarding the steps taken pursuant to this subsection.

Subsection (d) directs the Administrator of the Agency for International Development to ensure that up to \$2 million of the funds made available each year to the Cooperative Association of States for Scholarships program are made available for deserving students from Panama to study in the United States, and requires the Administrator of the Agency for International Development to submit a report to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate, not later than one year after the date of submission of the certification and report under section 3, regarding the steps taken pursuant to this subsection.

Subsections (e), (f), (g), and (h) contain provisions within the jurisdiction of the Committee on Ways and Means relating to a trade benefit that shall be available to Panama if the President submits the certification and report under section 3.

*Section 5. Applicability of benefits*

Contains a provision within the jurisdiction of the Committee on Ways and Means relating to the availability of the trade benefit provided under section 4.

*Section 6. Conforming amendment*

Contains a conforming amendment to the Caribbean Basin Economic Recovery Act within the jurisdiction of the Committee on Ways and Means.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italic and existing law in which no change is proposed is shown in roman):

**SECTION 213 OF THE CARIBBEAN BASIN ECONOMIC  
RECOVERY ACT**

**SEC. 213. ELIGIBLE ARTICLES.**

(a)(1) Unless otherwise excluded from eligibility by this title, and subject to section 423 of the Tax Reform Act of 1986, *and except as provided in section 4 of the United States-Panama Partnership Act of 2000*, and except as provided in subsection (b)(2) and (3), the duty-free treatment provided under this title shall apply to any article which is the growth, product, or manufacture of a beneficiary country if—

(A) \* \* \*

\* \* \* \* \*

## MINORITY VIEWS

We oppose H.R. 3673, the United States-Panama Partnership Act, as ordered reported by the Committee on International Relations. We share concern about the situation in Panama and would support a presence there under the right circumstances. This bill, on the other hand, moves the situation in the opposite direction.

The bill amounts to no more than a statement by the authors that they are tough on drugs and want to regain U.S. influence in Panama. The bill will do little to practically affect either U.S. counter-narcotics objectives or help create an atmosphere under which Panamanians would consider a U.S. presence. It is poorly timed, threatens to inhibit rather than assist in achieving the goal of a U.S. presence in Panama, sets a dangerous precedent on trading favors for basing rights, includes significant hidden costs, and is unnecessary given progress on other U.S. sites in the region. The Panamanians have said clearly that they are not interested in the kind of presence this bill envisions. If it were to become law, this legislation would hurt bilateral relations with Panama and set back the objectives it intends to advance.

### H.R. 3673 IS POORLY TIMED

In December 1997, United States and Panamanian negotiators reached tentative agreement on a formula that would have allowed a continued US presence in Panama after the treaty-imposed December 31, 1999 deadline. That agreement was comprehensive and would have allowed a U.S. presence on counter-narcotics and a host of other issues that had been determined to be critical to U.S. national security. It was, in short, an arrangement that many of us were ready to support.

Prior to initialing this agreement, however, the Panamanian negotiators walked away from the deal. It was their assessment that the political climate in Panama was not conducive to finalizing an arrangement allowing a U.S. presence to remain. An influential group of political elites opposed the agreement based on nationalist concerns, and the conditions that they were set to impose on a continued U.S. presence called for too many compromises and raised security concerns for U.S. personnel. A presence in that climate and under those conditions was not in the United States national interest.

That climate has not significantly changed, and this bill threatens to worsen it. The chief negotiator for the United States, testifying before the House International Relations Committee last summer, made clear that pushing for a full U.S. presence was counter-productive. He said, "Having failed to reach an agreement, I strongly recommend that both countries adopt a cooling-off period of several years." He went on to say, "I would say that if the Panamanians came to us, then that would be one set of circumstances.

But for us to take an initiative at this juncture I think would simply open wounds in Panama.”

The Panamanians have not approached the U.S. about an expanded presence. On the contrary, they have continued to make it clear that they are not interested in a U.S. military presence. In order to convince the Panamanians that they need a U.S. presence, the bill fashions several benefits for Panama. The chief benefit, NAFTA parity, threatens to exacerbate a problem between our two countries, a situation that is described further below. One of the three other benefits—a Trade and Development Agency study of a new sewage treatment plant in Panama City—is already being undertaken. The bill offers limited benefits and will delay the day that Panamanians approach us about re-opening talks.

This bill also stands to threaten the little progress we have been able to make with the Panamanians. The U.S. and Panama are negotiating a very minimal “Visiting Forces Agreement” and it is the belief of our negotiators of this agreement that moving this bill for a wider presence would in fact hamper those discussions. If we cannot get agreement on a minimal agreement now, we are sure to dirty the waters for a wider agreement even after a cooling off period of several years. This bill may threaten our ability to ever reach agreement with the Panamanians over a U.S. military presence there.

#### H.R. 3673 SETS A DANGEROUS PRECEDENT AND INCLUDES HIDDEN COSTS

The bill, in offering a costly trade agreement for a deal on a U.S. presence in Panama, sets a risky precedent for U.S. military presence in basing agreements across the globe. As we drive up the price for Panama, other host countries for U.S. military personnel elsewhere in the world look on. They too will hold out for a sweetheart deal in exchange for basing agreements.

But these are not the only costs that this bill carries with it. Over the course of the last decade the U.S. military has been preparing the turnover of former U.S. assets in Panama. Construction that would have otherwise been required was canceled and military construction funds dedicated to other priorities. Re-establishing a U.S. military presence in Panama will bring with it significant military construction costs—by some estimates more than \$100 million—costs that have not yet been budgeted for.

There are also significant diplomatic costs associated with this bill. If it appears that we are not honoring our commitments to the Canal Treaties of 1977, we will face increased skepticism and decreased cooperation throughout the rest of the Hemisphere.

#### H.R. 3673 IS NOT NEEDED

The military construction funds for alternative sites—in Aruba/Curacao, Ecuador and El Salvador—have been budgeted for and are ready to be put to use. The Administration has negotiated forward operating locations in Aruba, Ecuador and El Salvador and with the recently passed military construction funds those sites will be up and running—and giving us, at full implementation, 130% of the aerial counter-narcotics coverage we were able to generate out of Panama.

These alternative sites have the added benefit of diversifying U.S. counter-narcotics operations in the region. Rather than being solely dependent on the political machinations of Panama, these three forward operating locations give us greater coverage and more cooperation from our friends in the region. These arrangements are already negotiated and ready to be implemented. Moving forward on just Panama, on the other hand, further delays critical action in the region and comes at a far greater political cost in the region. The existing arrangements are the way to address our concerns for counter-narcotics operations in the region, not through the well-intentioned but misguided H.R. 3673, a costly and unnecessary gamble that will risk present and future cooperation with Panama and slow down our operations in the region.

#### CONCERNS ON TRADE

Understanding that the trade sections of this bill do not fall within the jurisdiction of our Committee, we nonetheless want to underscore our concerns on how this trade agreement affects two major concerns as they relate to Panama. One, the bill contains no safeguards for U.S. workers who will be affected by the agreement. Two, the bill runs the risk of exacerbating a problem that the U.S. has had with Panama since the passage of the Caribbean Basin Initiative in the early 1980s. Panama, in comparison with its Central American neighbors, has a relatively small textile industry—the main beneficiary of the trade benefits in H.R. 3673—and has, in the past, re-exported to the United States textiles assembled in China, labeling them as Panamanian products. Transshipment of Chinese goods through Panama into the United States is consistently an issue of contention between Panama and the United States. This bill not only does not address this problem but stands to exacerbate it.

H.R. 3673 will not fulfill its intended goal. It complicates efforts to cooperate with the Panamanians and will exacerbate problems on trade. For these reasons we oppose the bill.

SAM GEJDENSON.  
DONALD M. PAYNE.  
ALCEE L. HASTINGS.  
JOSEPH HOFFEL.  
STEVEN R. ROTHMAN.  
JOSEPH CROWLEY.  
BILL DELAHUNT.  
JIM DAVIS.  
ROBERT WEXLER.  
GARY ACKERMAN.  
EARL POMEROY.  
ENI FALEOMAVAEGA.  
TOM LANTOS.